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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,533	12/03/2003	Jacob Fast	P68358US1	8788

136 7590 04/21/2005

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WASHINGTON, DC 20004

EXAMINER

ROYAL, PAUL

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,533

Applicant(s)

FAST ET AL.

Examiner

Paul Royal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03/08/04, 06/16/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 03/08/04 and 06/16/04 have been considered by the examiner.

Specification

Claims 1-14 are objected to because of the following informalities:

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Applicant must clearly disclose the following claimed elements: the upper edge portion, the upper and lower pockets of the C-channel, the lower edge portion, the front face, the rear face, the spaced second part of the sign holder, and the terminal tip. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear if the claim is to claim just the label holder or the combination of the label holder and C-channel.

The claims have been examined on the merits applying the Examiner's best understanding of the recited claim limitations.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Gebka et al. (US 5,394,632) in view of Harnois et al. (US 5,419,06).

Gebka et al. teaches a label holder/price channel to be fitted into a C-channel wherein the C-channel includes:

an upper lip (17') defining a downwardly-opening upper pocket and,
a spaced lower lip (12b') defining an upwardly-opening lower pocket, and
the label holder includes a labeling panel (10') having upper edge portions (16') adapted to be engaged in the upper pocket of a channel, and lower edge portions,
a front face (12a'') adapted to support an information-containing label, and
a rear face (12'),

a transparent cover member (24') having sign receiving means (12b') and a rear face and lower edge portions, the lower edge portions of the cover member being resiliently secured to the lower edge portions of the labeling panel to define a label-receiving pocket between the front face of the labeling panel and the rear face of the cover member, and

a rearwardly- extending mounting leg (14') having one end portion secured to the rear face of the labeling panel intermediate the upper and lower edge portions of the labeling panel, and a second end portion including a terminal tip adapted to be engaged in the lower pocket of the channel and terminating in spaced relation to the rear face of the labeling panel.

Gebka et al. does not teach the mounting leg including a resilient arcuate portion one end of which the rear face of the labeling panel.

Harnois et al. teaches a card holder extrusion including a rearwardly- extending mounting leg (53) having one end portion secured to the rear face of the labeling panel intermediate the upper and lower edge portions of the labeling panel the mounting leg including a resilient arcuate portion one end of which the rear face of the labeling panel,

the arcuate portion initially extending upwardly and rearwardly away from the rear face of the labeling panel and then extending downwardly to the tip of the second end portion of the mounting leg to provide adjustability to the effective length of the mounting leg to provide an easily mountable card holder.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the label holder of Gebka et al. to include the rearwardly- extending

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mounting leg having one end portion secured to the rear face of the labeling panel intermediate the upper and lower edge portions of the labeling panel the mounting leg including a resilient arcuate portion one end of which the rear face of the labeling panel, the arcuate portion initially extending upwardly and rearwardly away from the rear face of the labeling panel and then extending downwardly to the tip of the second end portion of the mounting leg, as taught by Harnois et al., to provide adjustability to the effective length of the mounting leg to provide an easily mountable card holder.

Note, where the label holder is recited as "to be fitted into a C-channel" but the C-channel is not positively claimed or positively presented as the work-piece, the C-channel is understood to be the intended use of the claimed label holder and not part of the instant invention, therefore the C-channel has not been given patentable weight and the analysis is whether the structure and operation of the prior art meets the claimed label holder limitations.

5. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Gebka et al. in view of Harnois et al., as applied to claim 4, in further view of Lowery et al. (US 6,568,112).

Gebka et al. in view of Harnois et al., as applied to claim 4, teaches a label holder/price channel as claimed except wherein the sign-receiving means includes an upper lip.

Lowery et al. teaches a label and sign holder to be fitted into a C-channel of a merchandising shelf wherein the C-channel includes:

the sign-receiving means comprises an upper lip (50) on said front face of said cover member (18') defining a downwardly-opening pocket adapted to part of a sign holder and a spaced lower lip (52) on the front face of said cover member defining an upwardly-opening pocket adapted to resiliently receive a spaced second part of the sign holder to provide a merchandising aid wherein labels can be selectively inserted and removed without removing the label/sign holder.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the label holder/price channel of Gebka et al. in view of Harnois et al., as applied to claim 4, to include the sign-receiving means comprises an upper lip on said front face of said cover member defining a downwardly-opening pocket adapted to part of a sign holder and a spaced lower lip on the front face of said cover member defining an upwardly-opening pocket adapted to resiliently receive a spaced second part of the sign holder, as taught by Lowery et al., to provide a merchandising aid wherein labels can be selectively inserted and removed without removing the label/sign holder.

6. Claims 6-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Gebka et al. (US 5,394,632) in view of Harnois et al. (US 5,419,06) and Lowery et al. (US 6,568,112).

Gebka et al. teaches a label holder/price channel to be fitted into a C-channel wherein the C-channel includes:

- an upper lip (17') defining a downwardly-opening upper pocket and,
- a spaced lower lip (12b') defining an upwardly-opening lower pocket, and
- the label holder includes a labeling panel (10') having upper edge portions (16') adapted to be engaged in the upper pocket of a channel, and lower edge portions, a front face (12a'') adapted to support an information-containing label, and a rear face (12'),
- a transparent cover member (24') having sign receiving means (12b') and a rear face and lower edge portions, the lower edge portions of the cover member being resiliently secured to the lower edge portions of the labeling panel to define a label-receiving pocket between the front face of the labeling panel and the rear face of the cover member, and
- a rearwardly- extending mounting leg (14') having one end portion secured to the rear face of the labeling panel intermediate the upper and lower edge portions of the labeling panel, and a second end portion including a terminal tip adapted to be engaged in the lower pocket of the channel and terminating in spaced relation to the rear face of the labeling panel.

Gebka et al. does not teach a card holder including a rearwardly- extending mounting leg.

Lowerey et al. teaches a C-channel (72), formed on the front edge of a merchandising shelf (75), comprising an upper lip (50) defining a downwardly-opening upper pocket and a spaced lower lip (52) defining an upwardly -opening lower pocket to provide a merchandising aid wherein labels can be selectively inserted and removed without removing the label/sign holder.

Harnois et al. teaches a card holder extrusion including a rearwardly- extending mounting leg (53) having one end portion secured to the rear face of the labeling panel intermediate the upper and lower edge portions of the labeling panel the mounting leg including a resilient arcuate portion on the end of which is secured to the labeling panel,

the arcuate portion initially extending upwardly and rearwardly away from the rear face of the labeling panel and then extending downwardly to the tip of the second end portion of the mounting leg to provide elastic mountability in display shelves.

It would have been obvious to one of ordinary skill in the art at the time of the invention *to modify the label holder of Gebka et al. to include* the sign-receiving means comprises an upper lip on said front face of said cover member defining a downwardly-opening pocket adapted to part of a sign holder and a spaced lower lip on the front face of said cover member defining an upwardly-opening pocket adapted to resiliently receive a spaced second part of the sign holder, as taught by Lowery et al., to provide a merchandising aid wherein labels can be selectively inserted and removed without removing the label/sign holder, *and to modify the label holder of Gebka et al. in view of*

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Lowery et al. to include the rearwardly- extending mounting leg having one end portion secured to the rear face of the labeling panel intermediate the upper and lower edge portions of the labeling panel the mounting leg including a resilient arcuate portion one end of which the rear face of the labeling panel, the arcuate portion initially extending upwardly and rearwardly away from the rear face of the labeling panel and then extending downwardly to the tip of the second end portion of the mounting leg, as taught by Harnois et al., to provide elastic mountability in display shelves.

For claims 8-10, note the price channel/label holder of Gebka et al., Harnois et al. and Lowery et al. are all taught as mounted on a conventional, known display/merchandise shelf which is understood to include Lozier, Madix, and Streater shelves where applicant has not presented or disclosed limitations not operable with the applied prior art.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Garfinkle teaches a tag holder. Kump et al. teaches a label holder. Ireland teaches a merchandising shelf bracket.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Royal whose telephone number is 571-272-6652. The examiner can normally be reached on 8:30-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



P. Royal
4/18/05

Paul Royal
Examiner
Art Unit 3611



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